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*Attorneys for Ellen G. Victor in her capacity as holder of Bernard L. Madoff Investment
Securities LLC Accounts 1-ZA128-3 and 1-ZA128-4*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
SECURITIES INVESTOR	:	
PROTECTION CORPORATION,	:	
	:	
Plaintiff-Appellant,	:	
	:	SIPA Liquidation
v.	:	(Substantively Consolidated)
	:	Adv. Pro. No. 08-01789 (BRL)
BERNARD L. MADOFF INVESTMENT	:	
SECURITIES LLC,	:	
	:	
Defendants.	:	
	:	
-----	X	
	:	
In re:	:	
	:	
BERNARD L. MADOFF,	:	
	:	
Debtor.	:	
	:	
-----	X	

**DESIGNATION OF ITEMS FOR INCLUSION IN THE RECORD AND JOINDER IN THE
STATEMENT OF THE ISSUE TO BE PRESENTED ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8006, and with respect to the Notice of Appeal filed on March 19, 2010, by Ellen G. Victor in her capacity as holder of Bernard L. Madoff Investment Securities LLC accounts 1-ZA128-3 and 1-ZA128-4 (“Appellant”), Appellant hereby designates the following item, in addition to those items designated in *Joint Designation Of Items To Be Included In The Record And Statement Of The Issue To Be Presented On Appeal* (filed Apr. 1, 2010), for inclusion in the record on appeal:

Filing Date	Docket #	Docket Text
11/13/2009	769	Statement /Joinder of Interested Party Ellen G. Victor, as Holder of Bernard L. Madoff Investment Securities LLC Accounts 1ZA128-3 and 1ZA128-4, in Memorandum of Law Filed by Sterling Equities Associates and Certain Affiliates (related document(s) 716) filed by James P. Smith III on behalf of Ellen G. Victor in her capacity as holder of Bernard L. Madoff Investment Securities LLC Accounts 1-ZA128-3 and 1-ZA128-4. (Smith, James) (Entered: 11/13/2009)

Furthermore, as set forth in *Joint Designation Of Items To Be Included In The Record And Statement Of The Issue To Be Presented On Appeal*, Appellant hereby joins in the Statement of the Issue to Be Presented on Appeal, which states:

Whether the Bankruptcy Court erred when it ruled that a customer’s “net equity” under Section 16(11) of the Securities Investor Protection Act (“SIPA”) may be determined by calculating the amount of cash deposited by the customer minus the amount withdrawn, rather than by calculating the dollar value of the securities positions in real securities shown on the customer’s last account statement prior to the filing date, where SIPA defines “net equity” as:

the dollar amount of the account or accounts of a customer, to be determined by –

(A) calculating the sum which would have been owed by the debtor to such customer if the debtor had liquidated, by sale or purchase on the filing date, all securities positions of such customer . . . ; minus

(B) any indebtedness of such customer to the debtor on the filing date (15 U.S.C.
§ 78lll(11).)

Dated: April 2, 2010
New York, New York

Respectfully submitted,

DEWEY & LEBOEUF LLP

By: /s/ Kelly A. Librera

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